

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

CEDRIC ANDERSON

PLAINTIFF

v.

CIVIL ACTION NO. 1:23-cv-75-TBM-RPM

**DAVID A. BERNIUS *and*
CARROLL FULMER LOGISTICS CORP.,**

DEFENDANTS

ORDER

This matter came before the Court on the Motion to Dismiss [15] and Amended Motion to Dismiss [17] filed by Defendant PAM Transport, Inc. on November 28, 2023, in response to the Plaintiff's original Complaint [1] filed on March 20, 2023, and the Motion to Dismiss Defendant [16] filed by Plaintiff on November 28, 2023.¹ Pursuant to Plaintiff's Amended Complaint [20] filed on December 18, 2023, the Court finds that the Motions [15], [16], and [17] are MOOT.

The Amended Complaint [20] renders the original Complaint [1] of no legal effect because the Amended Complaint does not refer to, adopt, or incorporate by reference the original Complaint. *King v. Dogan*, 31 F.3d 344, 346 (5th Cir. 1994) (finding that an amended complaint supersedes the original complaint and renders it of no legal effect unless the amended complaint specifically refers to and adopts or incorporates by reference the earlier pleading.”).

¹ Defendant PAM Transport, Inc. is no longer a party in the case because they were not named as a party in the Amended Complaint [20] filed on December 18, 2023.

Therefore, the pending Motions to Dismiss [15], [16], and [17] are moot. *See New Orleans Association of Cemetery Tour Guides and Companies v. New Orleans Archdiocesan Cemeteries*, 56 F.4th 1026, 1034 (5th Cir. 2023) (“Because the first amended complaint is nullified, we cannot consider—and thus must dismiss—an appeal . . . stemming from said complaint.”).

IT IS THEREFORE ORDERED AND ADJUDGED that the Motion to Dismiss [15] is MOOT.

IT IS FURTHER ORDERED AND ADJUDGED that the Motion to Dismiss Defendant [16] is MOOT.

IT IS FURTHER ORDERED AND ADJUDGED that the Amended Motion to Dismiss [17] is MOOT.

This, the 28th day of December, 2023.



TAYLOR B. McNEEL
UNITED STATES DISTRICT JUDGE